File No. 113-05
Serial Nos. 1 & 2

1905

GENERAL AND REVENUE SECRETARIAT.

(Sep. Rec)

Part A: Manuscript
for March 1906

Serial Nos. 1 & 2

Appellate authority
over the orders of the Commr
in Excise Matters

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

2 - The ...

in submitting a confi
report in the matter
It is hoped that a c
occurrence of such
delay will be avoided
3. As regards the Excise
Comrs powers to decid
appeals against the
orders of the Dy. Comr
in Excise matters, his
attention is drawn to
as under
See 4 cl (a) of the Excise Reg
V of 1901 and Govt. noti
No 11212-E.7.3-01 dt the
6th January 1902 under
which he has only the
powers of a Dy. Comr
and as it is not expressly
stated in the Order that
that the Excise Comr is
the immediate superior
of the Dy. Comrs it is
therefore held that
the control given to
him refers only to
matters of establishment
discipline & not to
proceedings like those
of a quasi-judicial

dealt with
depends on the Q. Do questions about
which are

2) Letter no 3748 the
2nd February 1905 from
the Asst Comr. Reporting
on the reference to the above
Heat through the Dy. Comr
finish report was received
by him on the 22nd July 1903
the matter was under
further Correspondence
between ~~[illegible]~~
Copies there of to 6th Dec 1905
which are submitted, his
final report to Govt
and pointing out that
the appeal in question
should have been left
for his ~~[illegible]~~ decision.
Orders thereon Pc H 5494 8/13-3-06
S.R 13-05-2

1 Govt. Report to
Secretary State was a
delay in all of one year
& three months in the
Office of the Dy Comr of Kaira

G.R.S. 28]

File No. 113-9
Serial No. 9 V

Diary No. of letter replied to 3233

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
(d. 1 (2)

, *the* 13-3 1906

Date of issue do

Signed by N V Sabhaya Chetty

cf
21/2/06

Serial no 2

To The Asst Comr in Mysore

READ.— No H 54948 dtd 13th inst

Para 4 of G.O. no. H 4456-E 7.15-02-4 dtd 11th January 1906 observing that there was an inordinate delay of 2 Fs 9 years and 8 months in the submission of the report called for from the Deputy Commr on the appeal petition of Venkatappa & others of Mudagere against the order of the Dy Comr of the Kadur District [illegible] the issue of certain bargani toddy shops

ORDER THEREON.—No.

over

SUBJECT

MGCPB—20,000—21-2-0

March ~~Sdk 13-05 sl (1)~~

No. 374, OFFICE OF THE ~~EXCISE~~ COMMISSIONER IN MYSORE

DATED BANGALORE, ~~2~~ 2nd February ~~1905~~.

From

P. N Purnaya Esquire B.A.

Excise Commissioner in Mysore.

To

B. K. Venkata Varadengar Esquire

Secretary to the Government of His Highness the Maharaja of Mysore,

General and Revenue Departments

Letter no 374, of the 2nd February 1906

Serial no 1

I have the honor to acknowledge the receipt of Government Proceedings No. Hl 4456 dated 11 March 1905 on S.R. 15-024 the appeal of Venkatappa and others in the Mudigere Taluk in the matter of the recovery from them of the loss sustained by Government in the resale of the Bagani Toddy Shops registered in their names and with reference to para 4 thereof to submit that though the Deputy Commissioner's report was received on 22nd July 1903 further information had to be called

K. 3250

11 10.256 5 R

1905—1906.

From P. N. Purnanya Esq. M. A

Excise Commissioner.

in Mysore.

To B. K. Venkatavaradiengar Esq

Secretary to the Government of

His Highness the Maharaja of Mysore.

General and Revenue Departments.

Dated 2nd January 1906.

Despatched

Received

No. 374

Enclosure No.

SUBJECT.

Offering his explanation on certain points noticed by Government in their proceedings no R 4456 S.R 1502-4 dated 11th Jan. 1906.

for and there was exchange of correspondence as summarised ~~in the margin~~ as shown below up to 1st December 1905 when his no 83 dated 30th November 1905 was received and my report to Government was submitted on 12th ultimo.

Ex. Comrs no 155/13 dated 27.7.03
Do 1682/81 d. 29.8.0
By Comrs no 41 d. 5/6 9.0
Ex. Comrs no 4423/70 d. 12.1/14
By Comrs no 117 d. 31.12.
Ex. Comrs no 5609/96 d. 13.2
Do no 7117/116 d. 18.4/19
By Comrs no 186 d. 24.4
Ex. Comrs no 33 d. 29.8.
Do no 37 d. 5.9.05
By Comrs no 51 d. 19.9.05
Do no 66 d. 10.10.05
Ex. Comrs no A/3 d. 21.10.0
and
By Comrs no 83 d. 29.11

2. As regards the remark that the record is not quite complete, I beg to state that I am not informed in what respect it is so and I shall obtain and submit any further information if deemed necessary.—

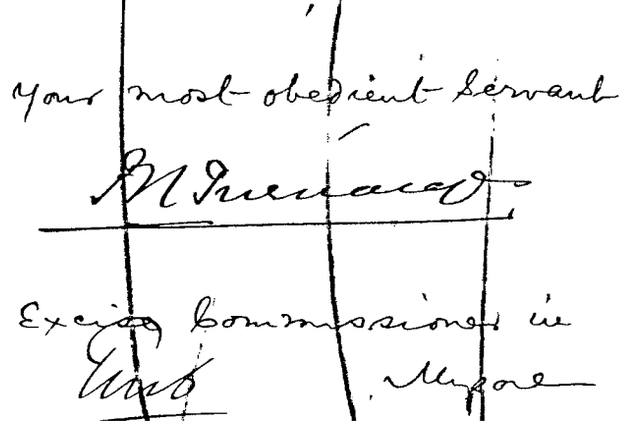
3. Before submitting the record I examined it as carefully as if I had to decide it finally and forwarded it finding containing complete information for disposal of the appeal. Properly considered the appeal should have been [illegible] decision and I am even now in the dark as to why Government retained the disposal in their hands. I had

to submit the report however to carry out the orders of Government and in doing so have not omitted to look into its completeness as pointed out above.

I have the honor to be

Sir,

Your most obedient Servant



Excise Commissioner in Mysore

Serial No.	
	quoted above which are
	of a quasi-judicial nature
	affecting the rights & liabilities
	of private parties

C.R.S. 12]
General and Revenue Secretariat.

SP File No. 113 of 1905

Serial No.

Draft. Rs. D.D. to ...

~~Recd 7.4.06~~ 9.2.06

H.D. Salaryman & Clerks 20.2.06.

9. ~~We~~ Draft submitted by the Dewan Sahib thereto / Committee B.L. Venkatarao ~~Head~~ Deputy 23/2/1906.

1406 / 23-2-06

23.2.06

10. ... as the Rules now stand it does not seem to be necessary to consult Rc. Draft attached Rc. 4/2/06.

24.2.1906

1152 / 26.2.06 / 2

11. Draft approved by the Dewan

To the Excise Comr

No. 5496 & the 13th March 1906

with the delay in the ~~Consolidation~~ submission of the records in an incomplete state and points on which ~~various~~ questions it is held that ~~the Contract~~ ~~questions to the Excise Comr under~~ ~~correspondence~~ to Conductors to the Excise Comr reference only to matters of departmental discipline & not to the proceedings like those dealt with in the Govt. ...

NOTE—Contn. sheet.

MGCPB—20,000—1-11-04.

G.R.S. 12]
General and Revenue Secretariat.

File No. 113 of 1905

Serial No.

letter under disposal can be recorded

4. But the Excise Comr has pointed out that the above appeal should be authority over the Dy. Comr who has been left for the disposal of the appeal & states that he is the Court to whom petitions for disposal is therein vested

5. His question now raised by the Excise Comr for the limitation was once more considered and decided that the Sub Collr from the Dy. Comrs Cases on appeal lies direct to Govt." The above reason was not communicated to the Excise Comr as there was no necessity for it. The above decision was arrived at on the authority of Rule 3 Cl. (2) & (3) 4 Cl. (a) of the Excise Regulation, 1/55 Govt and Govt. 11912 - E. 73-01. dt 6th March 1902

Page 4 of the Office note in E. 7 21-01

Flag A

Submitted for orders

T. Saluvadi. Chetty.

13/2/06

14.2.06

I remark that the Dist Collr is the Appellate authority under the Act. B.K. Venkata Narasa Raju 16-2-06

Office Asst returns the following

11387 / Flag T
E 3-1901
4667 / Flag S
F. 3-1901
cc to

16/2/06

NOTE—Contn. sheet.

IGCPB—20,000—1-11-04.

ORIGINAL

1905-06

FILE No. 113 OF 1905-06.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

PROCEEDINGS OF THE GENERAL AND REVENUE DEPARTMENT

SEPARATE REVENUE

MARCH

"A" Collection Serial Nos. 1—2

Appellate authority from the orders of Deputy Commissioners in Excise matters.

TABLE OF CONTENTS.

Serial No. of File	Number and date of letter and contents	References	Page in Part A.
1	From the Excise Commissioner, No. 374, dated the 2nd February 1906. xplains with reference to para 4 of G.O. No. Fl. 4456—S. R. 15-02-4, dated the 11th January 1906, that the delay of two and a half years noticed was due to the matter (appeal from Venkate Gowda and others of Mudgere in the matter of recovering from them the loss that resulted to Government by the resale of certain Bagani toddy shops) having been under further correspondence between himself and the Kadur Deputy Commissioner, who submitted a final reply only on the 30th November 1905. Also points out that the above appeal should have been left for his disposal.	E. F. 21-01 and 15-02.	1
2	To the Excise Commissioner, No. Fl. 5494, dated the 15th March 1906. Remarks on the delay and the submission of the records in an incomplete state and points out that as under Section 4, Clause (A), of the Excise Regulation, V of 1901, and Government Notification No. 11212—Ex. F. 3-01, dated the 6th January 1902, he has only the powers of a Deputy Commissioner, and as it is not expressly stated in the toddy rules that the Excise Commissioner is the immediate superior of the Deputy Commissioner, it is held that the control given to him refers only to matters of departmental discipline and not to proceedings like those dealt with in the Government Order quoted above, which are of a quasi-judicial nature affecting rights and liabilities of private parties.		1

1905-06.

GENERAL AND REVENUE SECRETARIAT.

SEPARATE REVENUE FOR MARCH 1906.

NOTES.

File No. 113 of 05-06.

Appellate authority over the orders of Deputy Commissioners in Excise matters.

From the Excise Commissioner, No. 374, dated 2-2-06.

Explains, with reference to G. O. No. Fl. 4456—S. R. 15-02-4, dated 11th January 1906, that though the Kadur Deputy Commissioner's report was received on 22nd July 1903, the matter was under further correspondence between himself and the Deputy Commissioner till the end of November 1905, and points out that the appeal should have been left for his decision.

1. In passing orders on the appeal petition of Venkategowda and others of Mudgere against the order of the Kadur Deputy Commissioner regarding the recovery from the petitioners of the loss of revenue sustained by Government by the re-sale of certain bagani toddy shops for 1902-03, Government observed that "there has been an inordinate delay of two and a half years in the submission of the report called for and that the record so tardily submitted is not quite complete."

2. With reference to the above observation, the Excise Commissioner explains that the matter was under correspondence between himself and the Deputy Commissioner till the end of November 1905 and that his report was submitted to Government on the 12th December 1905 and that there was therefore no delay in his office. He also asserts that the record submitted by him to Government was complete enough for the disposal of the appeal. The latter observation seems to have been made as the record did not contain the papers relating to the original sale of the toddy shop conducted in April 1902 (*vide* page 7 of the office note in Ex. F. 15-02).

3. So far as the above question is concerned, the Excise Commissioner's letter under disposal may be recorded.

4. But the Excise Commissioner has pointed out that he was the proper appellate authority over the Deputy Commissioner in the matter.

(*Vide* page 9 of the office note in Ex. F. 21 of 1901.)

5. This question now raised by the Excise Commissioner for the first time was once before considered and decided:—"In such cases an appeal from the Deputy Commissioner's order lies direct to Government." But this decision was not communicated to the Excise Commissioner as there was then no necessity for it. The above decision was arrived at on the authority of Section 3, clauses (2), (3), and 4, clause (*a*), of the Excise Regulation, V of 1901, and Notification No. 11212—Ex. F. 3-01, dated 6th January 1902.

6. Submitted for orders to Secretary.

T. G. K.
13-2-06.

T. SATYARAJA CHETTY.
14-2-06.

7. Remark on the delay in the District office and point out the order about appeals.

B. K. VENKATA VARADA IYENGAR.
16-2-06.

8. Draft submitted to Secretary.

T. G. K.

T. SATYARAJA CHETTY.
20-2-06.

9. Draft submitted to the Dewan Sahib through the 1st Councillor.

B. K. VENKATA VARADA IYENGAR.
23-2-06.

10. As the rules now stand, I do not think the Excise Commissioner's contention is correct. Draft approved.

C. S.
24-2-06.

11. Draft approved by the Dewan.

2. To the Excise Commissioner, No. Fl. 5494, dated the 13th March 1906.

Remarks on the delay and on the submission of the records in an incomplete state and points out that for reasons given it is held that the control given to the Excise Commissioner refers only to matters of departmental discipline and not to the proceedings like those dealt with in the Government Order quoted above, which are of a quasi-judicial nature affecting the rights and liabilities of private parties.

Proceedings of the Government of His Highness the Maharaja of Mysore, Separate Revenue. March 1906.

Appellate authority from the orders of Deputy Commissioners in Excise matters

FILE No. 113 of 1905-0

From P. N. Purnaiya, Esq., B.A., Excise Commissioner in Mysore, to B. K. Venkata Varada Iyengar, Esq., Secretary to the Government of His Highness the Maharaja of Mysore, General and Revenue Department. letter No. 374, dated the 2nd February 1906.

Serial No. 1.

I have the honor to acknowledge the receipt of Government Proceedings No. Fl. 4456—S. R. 15-02-4, dated 11th ultimo, passing orders on the appeal of Venkatappa and others in the Mudgere Taluk in the matter of the recovery from them of the loss sustained by Government in the resale of the Bagani toddy shops registered in their names, and with reference to para 4 thereof, to submit that though the Deputy Commissioner's report was received on 22nd July 1903, further information had to be called for and there was exchange of correspondence as summarised below up to 1st December 1905 when his letter No. 83, dated 30th November 1905, was received and my report to Government was submitted on 12th ultimo:—

Excise Commissioner's	No. 955—13, dated 27th July 1903.
Do	No. 1682—31, dated 29th and 31st August 1904.
Deputy Commissioner's	No. 41, dated 5th and 6th September 1904.
Excise Commissioner's	No. 4423-70, dated 12th and 14th December 1904.
Deputy Commissioner's	No. 117, dated 21st and 23rd December 1904.
Excise Commissioner's	No. 5609—96, dated 13th February 1905.
Do	No. 7117—116, dated 18th and 19th April 1905.
Deputy Commissioner's	No. 186, dated 24th April 1905.
Excise Commissioner's	No. 33, dated 29th August 1905.
D	No. 37, dated 5th September 1905.
Deputy Commissioner's	No. 51, dated 19th September 1905.
Do	No. 66, dated 10th October 1905.
Excise Commissioner's	No. A—3, dated 21st October 1905.
Deputy Commissioner's	No. 83, dated 29th November 1905.

2. As regards the remark that the record "is not quite complete," I beg to state that I am not informed in what respect it is so, and I shall obtain and submit any further information if deemed necessary.

3. Before submitting the record I examined it as carefully as if I had to decide it finally and forwarded it finding that it contained complete information for disposal of the appeal. Properly considered, the appeal should have been left for my decision and I am even now in the dark as to why Government retained the disposal in their hands. I had to submit the report, however, to carry out the orders of Government and in doing so have not omitted to look into its completeness as pointed out above.

To the Excise Commissioner in Mysore, No. Fl. 5494, dated the 13th March 1906.

Serial No. 2.

1. Government regret to observe that there was a delay, in all, of one year and five months in the office of the Deputy Commissioner of Kadur in submitting a complete report in the matter. It is hoped that a recurrence of such delays will be avoided.

2. The original sale patti and the records connected therewith were not in the file submitted by the Excise Commissioner and hence the observation made by Government.

3. In regard to the Excise Commissioner's power to decide appeal against the orders of the Deputy Commissioners in Excise matters, as under Section 4, clause (*a*), of the Excise Regulation V of 1901, and Government Notification No. 11212—E. F. 3-01, dated the 6th January 1902, he has only the powers of a Deputy Commissioner and as it is not expressly stated in the Toddy Rules that the Excise Commissioner is the immediate superior of the Deputy Commissioner, it is held that the control given to him refers only to matters of departmental discipline and not to proceedings like those dealt with in the Government Order quoted above, which are of a quasi-judicial nature affecting the rights and liabilities of private parties.